

LEGISLATURE OF NEBRASKA  
NINETY-EIGHTH LEGISLATURE  
SECOND SESSION

**LEGISLATIVE BILL 1088**

Introduced by Byars, 30

Read first time January 15, 2004

Committee: Transportation and Telecommunications

A BILL

1 FOR AN ACT relating to county roads; to amend sections 39-1811 to  
2 39-1813, Reissue Revised Statutes of Nebraska; to change  
3 provisions relating to weeds and vegetation along public  
4 roads; to provide powers and duties; to harmonize  
5 provisions; and to repeal the original sections.  
6 Be it enacted by the people of the State of Nebraska,

1                   Section 1. Section 39-1811, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3                   39-1811. (1) It shall be the duty of the landowners in  
4 this state to mow all weeds that can be mowed with the ordinary  
5 farm mower to the middle of all public roads and drainage ditches  
6 running along their lands at least twice each year, namely, before  
7 July 15, for the first time and ~~sometime in August~~ by September 30  
8 for the second time. General notice of this duty shall be  
9 published by each county, in one or more newspapers of general  
10 circulation in the county, on or before June 15 of each year.

11                   (2) Whenever a landowner, referred to in subsections (1)  
12 and (3) of this section, neglects to mow the weeds as provided in  
13 this section, it shall be the duty of the county board on complaint  
14 of any resident of the county to cause the weeds to be mowed or  
15 otherwise destroyed on neglected portions of roads or ditches  
16 complained of.

17                   (3) The county board shall cause to be ascertained and  
18 recorded an accurate account of the cost of mowing or destroying  
19 such weeds, as referred to in subsections (1) and (2) of this  
20 section, in such places, specifying, in such statement or account  
21 of costs, the description of the land abutting upon each side of  
22 the highway where such weeds were mowed or destroyed, and, if  
23 known, the name of the owner of such abutting land. The board  
24 shall file such statement with the county clerk, together with a  
25 description of the lands abutting on each side of the road where  
26 such expenses were incurred, and the county board, at the time of  
27 the annual tax levy made upon lands and property of the county,  
28 may, if it desires, assess such cost upon such abutting land,

1 giving such landowner due notice of such proposed assessment and  
2 reasonable opportunity to be heard concerning the proposed  
3 assessment before the same is finally made.

4 Sec. 2. Section 39-1812, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6 39-1812. Each landowner in this state upon whose land  
7 there is standing or growing any osage orange, willow or locust  
8 hedge fence, trees, or undergrowth, bordering the public roads,  
9 when such fence, trees, or undergrowth become a public nuisance to  
10 travel on the roads, or obstruct the view at or near railroad  
11 crossings, crossroads or abrupt turns in the road, shall keep the  
12 same trimmed not less than once a year by cutting back to within  
13 four feet of the ground, excepting trees, which shall be trimmed  
14 from the ground up eight feet, and the trimmings so cut shall be  
15 burned or removed from the road right-of-way within ten days after  
16 each cutting. (1) Each landowner in this state, at his or her  
17 expense, shall control standing or growing trees, brush, or  
18 undergrowth, including weeds located within the public  
19 right-of-way. The trees, brush, or undergrowth shall be trimmed or  
20 removed when the vegetation becomes:

- 21 (a) A public nuisance to travel on the roads;  
22 (b) A danger to the traveling public;  
23 (c) An obstruction to the view at or near railroad  
24 crossings or crossroads;  
25 (d) A hinderance to the maintenance of the roadway,  
26 right-of-way, or drainage ditches;  
27 (e) An obstruction to the view at abrupt turns in the  
28 road; or

1           (f) An impediment that prevents mowing with an ordinary  
2   farm mower.

3           (2) Tree branches which overhang, but are not rooted in,  
4   the public right-of-way shall be controlled by cutting back to the  
5   level of the vertical right-of-way. Trees that overhang, but are  
6   not rooted in, the public right-of-way shall be trimmed from the  
7   ground up fifteen feet, and the trimmings shall be burned or  
8   removed from the right-of-way within thirty days after each  
9   cutting.

10          (3) If, pursuant to section 39-1813, the county board  
11   orders such cutting back and trimming to be done, with the written  
12   permission of the landowner, trimmings, trees, brush, or  
13   undergrowth may be placed upon the abutting property for removal by  
14   the landowner within one year from the date of receipt of the  
15   written notice. General notice of the duty to control trees,  
16   brush, or undergrowth shall be published by each county, in one or  
17   more newspapers of general circulation in the county, on or before  
18   June 15 of each year.

19           Sec. 3. Section 39-1813, Reissue Revised Statutes of  
20 Nebraska, is amended to read:

21           39-1813. Whenever any landowner or his or her agent  
22 ~~shall neglect neglects~~ to trim such hedge fence, control standing  
23 or growing trees, brush, or undergrowth as provided in section  
24 39-1812, it shall be the duty of the person in charge of county  
25 road maintenance in the area in which such hedge fence, trees, or  
26 undergrowth is located, to report the same in writing  
27 simultaneously to the county attorney and to the county board,  
28 giving the location of the hedge fence, trees, or undergrowth and

1 declaring the same to be a public nuisance. The county attorney  
2 shall, upon receipt of such written notice, immediately and a  
3 written complaint is filed with the county board, township board,  
4 or county highway superintendent by a county resident, the county  
5 board may take action to provide for the control of such  
6 vegetation. The county board, upon a majority vote of its members,  
7 may serve written notice by certified mail upon the owner of the  
8 hedge fence, trees, or undergrowth, or upon his agent, to have such  
9 hedge fence, trees, or undergrowth, trimmed and the trimmings  
10 burned or removed within ten days. Upon failure of the landowner  
11 or his agent to comply with the notice of the county attorney  
12 within ten days, the county attorney shall give notice in writing  
13 to the landowner or his agent, fixing a date for a hearing before  
14 the county board on the complaint previously entered, that the  
15 landowner or his agent is maintaining a public nuisance by failing  
16 to trim said hedge fence, trees, or undergrowth in accordance with  
17 the provisions of section 39-1812. The notice shall fix a time not  
18 earlier than the next regular meeting of the county board, and in  
19 any event not less than five days after the date of the notice,  
20 when the owner or agent may appear before the county board and a  
21 hearing shall be had upon the matter. The county attorney shall  
22 appear at the hearing on behalf of the county for the abatement of  
23 the alleged public nuisance maintained by the owner or agent of the  
24 land upon which the hedge fence, trees, or undergrowth may be  
25 found. If at the hearing it shall appear that the hedge fence,  
26 trees, or undergrowth named in the notice are in a condition  
27 contrary to the provisions of section 39-1812, the county board  
28 shall forthwith and at once declare such hedge fence, trees, or

1 undergrowth a public nuisance, and make an immediate order for the  
2 trimming of the same in accordance with the provisions of section  
3 ~~39-1812~~. If the owner or agent shall neglect or fail to comply  
4 with the order within thirty days after receipt of such written  
5 notice, the county board shall cause the same to be done. The cost  
6 shall be paid from the general fund and a statement of such cost  
7 shall be recorded by the county board with the county clerk, giving  
8 a proper description of the lands whereon such hedge fence, trees,  
9 or undergrowth was trimmed, and the county clerk shall include such  
10 costs in making the county tax lists as an assessment and charge  
11 against such lands, which charge shall be a lien upon said lands  
12 and be collected the same as all other taxes regularly levied.  
13 ~~Nothing in sections 39-1812 and 39-1813 shall be deemed to abridge~~  
14 ~~the right of appeal from the finding of the county board to the~~  
15 ~~district court~~ property shall control the vegetation within thirty  
16 days or shall contact the highway superintendent within thirty days  
17 to arrange removal of the vegetation in cooperation with the county  
18 or township. If the owner or his or her agent neglects or fails to  
19 comply with the order or make arrangements with the county board or  
20 township board within thirty days after receipt of such written  
21 notice, the county board may cause the same to be done. The cost  
22 of any such vegetation control shall be at the expense of the  
23 owner. In addition, the county board shall immediately cause  
24 notice of possible unpaid vegetation control assessments to be  
25 filed against the affected property in the office of the register  
26 of deeds in the county where the property is located. The county  
27 board shall provide due notice of such assessment and reasonable  
28 opportunity to be heard before the assessment is made. If unpaid

1 for two months, the county board shall certify to the county  
2 treasurer the amount of such expense and such expense shall become  
3 a lien on the property as a special assessment levied on the date  
4 of the vegetation control. The county treasurer shall add such  
5 expense to and it shall become and form a part of the taxes upon  
6 such land and shall bear interest at the same rate as taxes.

7           Sec. 4.     Original sections 39-1811 to 39-1813, Reissue  
8 Revised Statutes of Nebraska, are repealed.